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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,951	03/02/2004	Colin Michael Kernan	883.0071USU	2166

7590 03/31/2005

Charles N.J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

EXAMINER

ZARROLI, MICHAEL C

ART UNIT PAPER NUMBER

2839

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/790,951

Applicant(s)

KERNAN, COLIN MICHAEL

Examiner

Michael C. Zarroli

Art Unit

2839

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-12 and 17-23 is/are rejected.
7) ☒ Claim(s) 13-16 and 24 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 02 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/2/04.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 11 objected to because of the following informalities: Line 26
“removable.” Appropriate correction is required.
2. Claim 24 objected to because of the following informalities: Line 22
“releaseably.” Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
4. Claims 1-10 and, 18-20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 lines 11-13 the applicant recites that the first side of the temperature control device has a conductor on the first side. The drawings show that there is a conductor (24 or 26) **near** the first side but not **on** the first side. The conductors are embedded in the first side.

The term "without disturbing a position of the appliance upon application of a force on said power supply cord" in claim 1 is a relative term which renders the claim indefinite. This term is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. This term makes the structure of the clip member indefinite. This term also makes the force applied by the clip indefinite.

The term "upon application of a force upon either said first component and said second component so that a location of the appliance is not disturbed" in claim 18 is a relative term which renders the claim indefinite. This term is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. This term makes the structure of the clip member indefinite. This term also makes the force applied by the clip indefinite.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 11-12 and, 17 rejected under 35 U.S.C. 102(b) as being clearly anticipated by applicant cited Mendelson et al (US6267602).

Mendelson discloses a detachable power supply apparatus (title) for an appliance (2) comprising: a temperature control device (5) having a body with a first side and a second side substantially opposite said first side (fig. 2), said temperature control device being electrically connected to the appliance (fig. 1), said temperature control device having a probe (10) and a conductor (35), said probe extending outwardly from said first side (fig. 2), said conductor being on said second side (also fig. 2); and a power supply cord having a first cord side and a second cord side being substantially opposite said second cord side (figures 1 or 13), said power supply cord having a second conductor (47) at said second cord side to connect to a power supply, said power supply cord having a female connector (46)

at said first cord side for connecting to said first conductor (fig. 2), wherein said second side removable connects to said first cord side (fig. 2).

Regarding claim 12 Mendelson discloses that said second side removably connects to said first cord side by a plug (figures 1 or 2).

Regarding claim 17 Mendelson discloses that said conductor is engageable with said female connector so that said temperature control device receives power from the power supply (col. 5 line 66 to col. 6 line 5).

7. Claims 21-22 rejected under 35 U.S.C. 102(e) as being clearly anticipated by applicant cited Dalmau Ferrerfabrega et al.

Dalmau Ferrerfabrega discloses a power supply apparatus (2) for an electrical appliance (title) comprising: a housing (fig. 1 at 2) with a first side and a second side, said first side connected to a power supply (5), wherein said housing has a friction clip (11) at said second side (fig. 1 at 2 right side), wherein said friction clip releasably engages the electrical appliance (figures 2-3), and wherein said friction clip selectively releases the electrical appliance upon an application of a force so that a location of the electrical appliance is not disturbed (col. 1 lines 14-20).

Regarding claim 22 Dalmau Ferrerfabrega discloses said friction clip is substantially U shaped and releasably engages a bulbous member on the electrical appliance (figures 1 & 5).

Claim Rejections - 35 USC § 103

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 23 rejected under 35 U.S.C. 103(a) as being unpatentable over applicant cited Dalmau Ferrerfabrega et al.

Dalmau Ferrerfabrega does not disclose the specific shapes of the friction clip as shown in claim 23.

At the time the invention was made it would have been obvious to one of ordinary skill in the art to modify the friction clip shape. The motivation for this shape change would be to adapt the plug/clip to various shapes. Well settled case law has held that absent any persuasive evidence that a particular shape was significant changes in shape of a component is not patentable material *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Allowable Subject Matter

10. Claims 1 and 18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

11. Claims 2-10 and, 19-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claims 13-16 and, 24 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. The following is a statement of reasons for the indication of allowable subject matter: The **friction** clip that contacts and connects with the first member

of the temperature control device together with the detachable power supply apparatus comprised of a temperature control device **and** a power supply device.

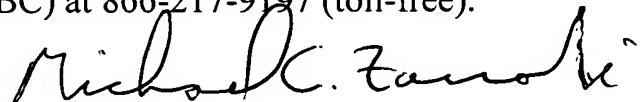
Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wu et al and Belongia et al teach friction connection of temperate control devices but no two separate parts together comprising the temperature device and power cord device.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Zarroli whose telephone number is 571-272-2101. The examiner can normally be reached on 7:30 to 3:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, T.C. Patel can be reached on (571) 272-2800 ext 39. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael C. Zarroli
Primary Examiner
Art Unit 2839

MCZ
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